

RESOLUTION NO. 55-93

SOARING EAGLE COUNTY ROAD IMPROVEMENT DISTRICT

RESOLUTION OF THE BOARD OF DIRECTORS OF SOARING EAGLE COUNTY ROAD IMPROVEMENT DISTRICT OF NAVAJO COUNTY, ARIZONA, APPROVING THE PLANS, SPECIFICATIONS, AND ESTIMATES, DECLARING ITS INTENTION TO ORDER PAVING OF THE ROADS; ALL AS SHOWN ON THE PLANS; DESIGNATING SUCH IMPROVEMENT AS SOARING EAGLE COUNTY ROAD IMPROVEMENT DISTRICT; DETERMINING THAT IMPROVEMENT BONDS WILL BE ISSUED TO FINANCE THE COSTS AND EXPENSES THEREOF AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT AND THAT THE COSTS OF SAID WORK OR IMPROVEMENT WILL BE ASSESSED UPON SOARING EAGLE COUNTY ROAD IMPROVEMENT DISTRICT; AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT WILL BE PERFORMED UNDER THE PROVISIONS OF 48-901 THROUGH 48-965 INCLUSIVE, ARIZONA REVISED STATUTES, AND ALL AMENDMENTS THERETO.

WHEREAS, a Petition requesting that the roads be paved within Soaring Eagle County Road Improvement District, including a Petition to Incur Expense, has been filed pursuant to Arizona Revised Statutes Section 48-901 et seq; and

WHEREAS, pursuant to Arizona Revised Statutes Section 48-913, Chuck Williams, Navajo County Engineer has been appointed as the District Engineer to perform all engineering and surveying tasks in order to accomplish the proposed improvement; and

WHEREAS, pursuant to Arizona Revised Statutes Section 48-914, the District Engineer has filed with the Clerk plans, specifications, and Estimates of the costs and expenses of the proposed improvement project; and

WHEREAS, it is the intention of the Board to order paving of the roads upon the completion of these proceedings; and

WHEREAS, the Board has examined the plans, specifications, and Estimates.

NOW, THEREFORE IT IS RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

Section 1 Definitions. In this Resolution, the following terms shall have the following meanings:

"Clerk" shall mean the Clerk of the Board of Supervisors of Navajo County, Arizona, ex officio Clerk of the Board of Directors of the Soaring Eagle County Road Improvement District.

"County" shall mean Navajo County, Arizona

"District" shall mean all lots, parcels and tracts of land lying within the exterior boundaries of the entire composite and consolidated territory as described in the petition for formation of the Soaring Eagle County Road Improvement District, a copy of said description being attached hereto as EXHIBIT "A." For a more particular description, reference is hereby made to the District Map and Description, which map is on file with the Superintendent of Streets, the Clerk, the District Engineer, and attached hereto as EXHIBIT "B."

"District Engineer" shall mean Chuck Williams, Navajo County Engineer.

"District Map" shall mean the map showing the District in the form attached to this Resolution as EXHIBIT "B."

"Estimate" shall mean the estimate of costs and expenses of Soaring Eagle County Road Improvement District filed with the Clerk prior to adoption of this Resolution, showing the estimated cost of the proposed Work to be \$205,000.00, a copy being attached hereto and labeled EXHIBIT "C."

"Governing Body" or "Board" shall mean the Board of Directors of the Soaring Eagle County Road Improvement District.

"Incidental Expenses" shall mean compensation paid to the District Engineer, costs of printing, advertising, posting, the amount paid the District Engineer to take charge and superintend the work of constructing the improvements, the expenses of making the assessment, appraiser's fees, all legal and financial fees, expenses and costs incurred in drafting the proceedings and the sale and registration of bonds and all interest to be paid on the bonds for the period of construction and six months beyond.

"Plans and Specifications" shall mean the plans and specifications and contract documents for the Soaring Eagle County Road Improvement District filed with the Clerk prior to the adoption of this Resolution.

"Superintendent of Streets" shall mean Chuck Williams, an employee of Navajo County, Arizona, and any successor to such person.

"Work" shall mean the construction and paving of roads and related drainage facilities all as shown on the Plans and Specifications.

Section 2. Approval of Plans, Specifications, and Estimates. The Board of Directors of the Soaring Eagle County Road Improvement District hereby preliminarily adopts and approves the plans, specifications, and Estimates for the Soaring Eagle County Road Improvement District subject to such protests and modifications as may be made in accordance with the law and such modifications as may be subsequently made by this Board of Directors for the Soaring Eagle County Road Improvement District, a copy of said Estimate being attached hereto as EXHIBIT "C" and incorporated herein by reference.

Section 3. Declaration of Intention to Order Improvements. The public interest and convenience require and it is the intention of this Board to order the Work to be constructed. All of said Work and improvements are to be constructed at the places and in the particular locations, of the forms, sizes, dimensions and materials and at the lines,

grades and elevations as exist and as shown and delineated on the Plans and Specifications therefore, prepared by the District Engineer and filed with the Clerk, and preliminarily adopted and approved. No assessment for any lot shall exceed its proportion of the Estimate. For purposes of this Resolution and of all resolutions and notices pertaining to this Resolution the improvement as herein described is hereby designated Soaring Eagle County Road Improvement District.

Section 4. Determination of Need. In the opinion of the Governing Body, the Work is of more than local or ordinary public benefit, and the Governing Body hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Soaring Eagle County Road Improvement District subject to assessment, in accordance with the benefits to be received by each such lot or parcel.

Section 5. Any public street or alley within the boundaries of the Improvement District may be omitted from the Improvement District to be assessed. Any lot belonging to the United States, the State of Arizona, a county, city, school district or any political subdivision or institution of the state or county, which is included within the District may be omitted from the assessment, and if so omitted, the expenses for such property shall be paid in accordance with Title 48, Chapter 6, Article 1, Section 48-920, Arizona Revised Statutes, as amended. If not omitted, the expenses shall be paid as provided by the aforesaid statutes.

Section 6. Determination and Notice of Necessity to Issue Bonds. The Board finds that the public convenience requires that Bonds shall be issued to represent the costs and expenses of the construction of the Work which is to be assessed upon the lands within the Soaring Eagle County Road Improvement District and determines that Bonds shall be issued in the name of the Soaring Eagle County Road Improvement District payable solely and only out of a special fund consisting of funds collectable from special assessments levied and assessed upon the lots, pieces and parcels of land within the Soaring Eagle County Road Improvement District subject to assessment therefore, in not to exceed twenty-five (25) annual principal installments from the assessments of twenty-five dollars (\$25.00) or over remaining unpaid as of the close of the period of time allotted for payment of assessments in cash prior to the delivery date of the Bonds.

Pursuant to Arizona Revised Statutes Section 48-946, the annual assessment installment for payments of the principal and interest on the Bonds shall be collectable in the manner and by the officers provided by law for the collection and enforcement of general taxes levied by the Soaring Eagle County Road Improvement District.

The first interest payment on the bonds issued shall be due on the first day of July, 1994, which date occurs no earlier than 180 days after the expected date of completion of the Work, and the first principal payment shall be payable to Bond holders on the first day of January, 1995. The Bonds shall mature on the first day of January in amounts to be set by the Governing Body prior to their issuance.

Said Bonds shall bear interest at the rate of not to exceed fifteen percent (15%) per annum, payable on the first day of January and July of each year. Said Bonds and the interest thereon shall be payable as provided in Arizona Revised Statutes Section 48-935, and the assessment installments

and interest will be collected as provided in Arizona Revised Statutes Section 48-946.

Section 7. Bond Anticipation Notes. The Board reserves the right to issue bond anticipation notes pursuant to Arizona Revised Statutes Section 48-962. The Board also reserves the right to retain any Bonds which may be issued and to sell the same for cash to pay the contractor the amounts due it in cash.

Section 8. Statutory Authority. The Work and all proceedings pertaining thereto shall be performed under the provisions of Sections 48-901 through 48-965, inclusive, Arizona Revised Statutes, and all amendments thereto.

Section 9. Protests and Objections to the Extent of the District. Owners of property within the Soaring Eagle County Road Improvement District may file with the Clerk of the Board of Supervisors, Navajo County, Navajo County Governmental Complex, P.O. Box 668, Holbrook, Arizona 86025, ex officio Clerk of this Board, written protests against the construction of the improvements or the extent of the Soaring Eagle County Road Improvement District to be assessed to pay the expenses of the improvements, within fifteen (15) days after the last publication of this Resolution, or within fifteen (15) days after the completion of the posting of the notices of proposed improvement, whichever date is later. Notice is hereby given that all protests made will be heard by the Board at the time fixed herein, and protesting owners shall appear at said time and show cause why their protests should not be overruled. The 16th day of August, 1993 at the hour of 11:00 a.m., at the Supervisors Chambers, Navajo County Governmental Complex, Holbrook, Arizona is fixed as the time and place when and where the Board will consider all protests against the improvements, the grades at which the Work will be done and the estimated costs of the improvements.

Owners and all other persons directly interested in the assessment, who have any objection to the extent of the Soaring Eagle County Road Improvement District or the improvement, or to any of the previous proceedings connected therewith, may, prior to the time fixed above in this Resolution, file a written protest briefly specifying the grounds of their objections.

All protests made as herein provided shall be in writing, shall clearly state the grounds of protest, shall describe the property as to which the protest relates, shall state its frontage in feet and decimals thereof, shall show the post office address of the signer, shall be signed by the owner and shall have attached an affidavit of an owner that each signature was affixed in his or her presence and is the signer's genuine signature.

Section 10. Delegation of Authority. The District Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications and the contract documents. All of said Work will be done under the direction of the District Engineer, such being a suitable person appointed therefore by the Superintendent of Streets and this Board, and shall see that the contract is fulfilled.

Section 11. Retained Right to Reduce or Alter Scope of Work. If, because of pending or threatened litigation concerning any one or more

parcels subject to assessment, the District and the winning bidder receive a written opinion of Bond Counsel stating that Bonds cannot be issued against such parcel or parcels, the Soaring Eagle County Road Improvement District may then cause the construction contract to be modified to exclude from the applicable contract some or all of the Work which will benefit the parcel or parcels in question. The filing of a certificate and request that no bonds be issued against any parcel pursuant to Section 48-935, Arizona Revised Statutes, may be deemed to be threatened litigation. To the extent that plans, detailed drawings and specifications show that any of the improvements described therein may be done according to any of several alternative Plans and Specifications, or methods, classes or kinds of construction or classes or kinds of material, the Board reserves the right to hereafter determine according to which the Work shall be done.

Section 12. Miscellaneous. The Work shall be constructed and all proceedings therefore shall be taken, the Superintendent of Streets shall cause to be posted Notices of Proposed Improvement at not more than 300 feet apart along the lines of the proposed improvements within the Soaring Eagle County Road Improvement District, which notice shall be headed "NOTICE OF PROPOSED IMPROVEMENT", such heading to be in letters at least one (1) inch in height; the Clerk shall certify to the passage of this Resolution of Intention, and shall cause the same in its entirety to be published in two (2) successive issues of the White Mountain Independent newspaper; a copy of said Notice being attached hereto and labeled EXHIBIT "D."

Said Notice of Proposed Improvement shall state (i) the fact of passage of this Resolution and briefly describe the proposed improvements, (ii) that the proceedings are had pursuant to Chapter 6, Title 48, Arizona Revised Statutes, Article 1, and state the time and place of hearing all protests. At least ten (10) days prior to the date set for the Hearing on Protests, the Clerk shall cause copies of said notice to be mailed to the owners of real property within the District, as their names and addresses appear on the last equalized county tax roll or as known to the Clerk.

All of the locations where streets will be paved are either open to public use or have been dedicated thereto by a plat of record or otherwise, or separate easements, leases or permits have been obtained therefore, or shall be acquired and shall be deemed to be public and subject to improvement and maintenance by the Board.

The descriptions of the public improvements and the terms describing the proposed Work used in this Resolution are general in nature. All items of Work and improvements do not necessarily extend for the full length of the description thereof or may extend beyond said description. The plans and detailed drawings for the Work and improvements shall be controlling as to the correct and detailed description thereof.

The grades and elevations shown in the Plans and Specifications are hereby adopted and established as the official grade for said Work. All such grades and elevations are in feet and decimals thereof with reference to the datum plane established by the United States Geological Survey.

The District Engineer shall make diagrams of the property contained within the Soaring Eagle County Road Improvement District; the diagrams shall show each separate lot, numbered consecutively, the area in square feet of each lot, and the location of the lot in relation to the Work

proposed to be done. This Resolution shall be filed with the Clerk and made a part of the records of the Governing Body.

No portion of the Work shall be paid by Navajo County. Following the completion of the Work and acceptance of the improvement by Navajo County, the improvements to the road will be maintained by Navajo County.

ADOPTED THIS 12 day of July, 1993.

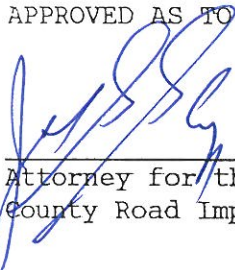
BOARD OF DIRECTORS
SOARING EAGLE COUNTY ROAD
IMPROVEMENT DISTRICT


Chairman

ATTEST:


Clerk

APPROVED AS TO FORM:


Attorney for the Soaring Eagle
County Road Improvement District

I hereby certify that I have read the description set out under the definition "District" and approve the same. I further certify that I have read the description set out under the definition "Work" and approve the same.

Chuck William
District Engineer

I hereby certify that the above foregoing Resolution No. 55-93 was fully passed by the Board of Supervisors of Navajo County, _____, Arizona, at a regular meeting held on July 12, 1993, and that a quorum was present thereat and that the vote thereon was 4 ayes and 0 nays. _____ were no vote and 1 ^{was} ~~was~~ absent.

Sharon J. Keens-Wright
Clerk

DECLINT.RES/SOARING

EXHIBIT A

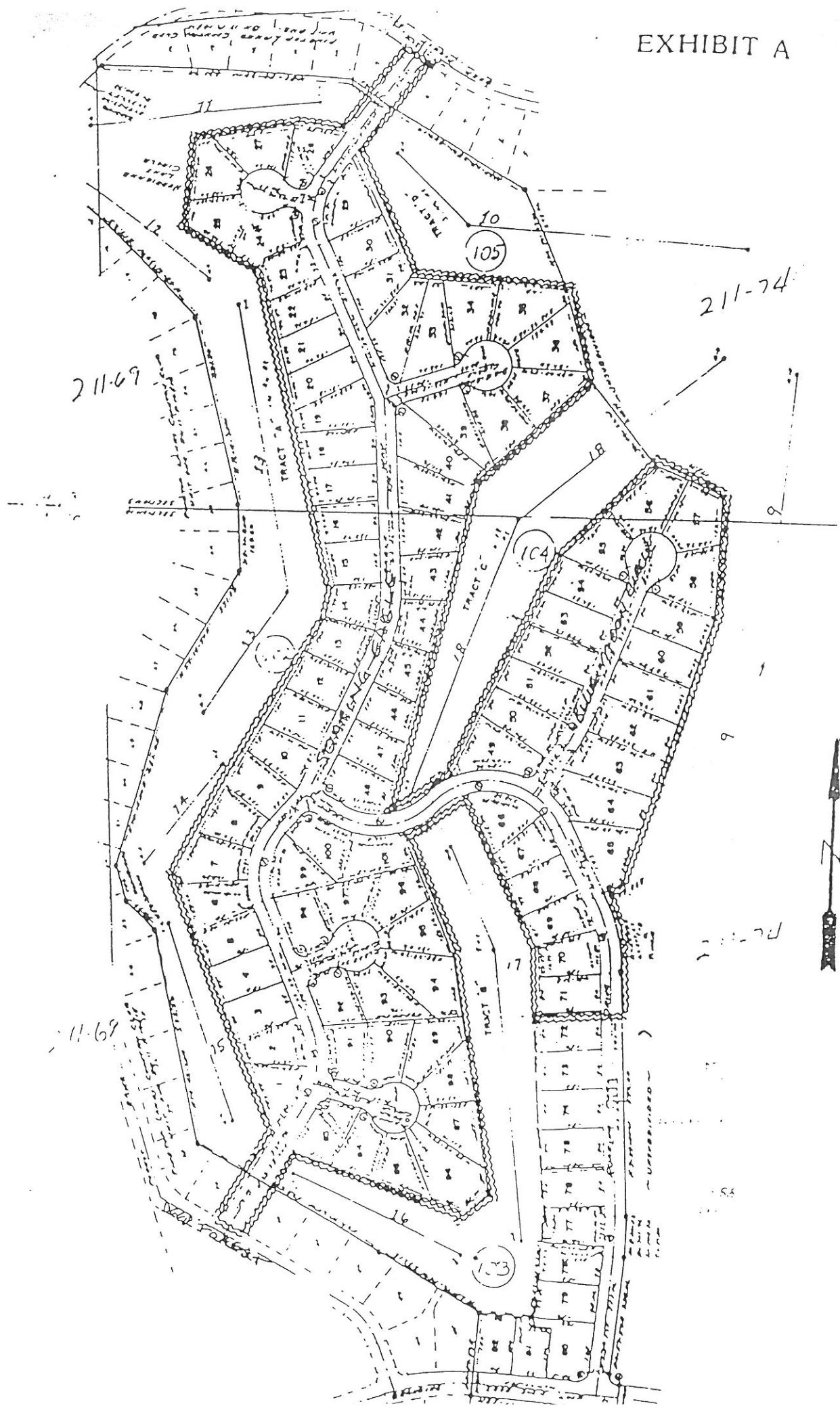


EXHIBIT B

Description of Soaring Eagle Way County Road Improvement District in Pinetop Lakes Country Club Unit One, as recorded in Book 11, Pages 14 and 15 of the Navajo County Records and Pinetop Lakes Country Club Unit Two, as recorded in the Navajo County Recorders Office in Book 11, Page 18.

Pinetop Lakes Country Club Unit Two

Soaring Eagle Way

Lots 1 through 23 inclusive
Lots 29 through 32 inclusive
Lots 40 through 48 inclusive
Lot 99

Hurricane Lake Circle

Lots 24 through 28 inclusive

Big Cinenega Circle

Lots 33 through 39 inclusive

Blue Moon Circle

Lots 49 through 64 inclusive

Roaring Fork

Lots 65 through 71 inclusive
Lots 100 and 101

Diamond Creek Circle

Lots 83 through 91 inclusive

Clear Sky Circle

Lots 92 through 98 inclusive

Also that portion of Soaring Eagle Way Roadway lying Southerly of lots 1 and 83 Pinetop Lakes Country Club Unit Two and the Northerly Right of Way of Deep Forest Drive; and that portion of Soaring Eagle Way Roadway lying Northerly of lots 28 and 29 Pinetop Lakes Country Club Unit Two and the Southerly Right of Way of Deep Forest Drive.

For a total of 90 lots.

Containing 47.34 acres more or less.

EXHIBIT "C"

SOARING EAGLE
COUNTY ROAD IMPROVEMENT DISTRICT

ESTIMATE

CONSTRUCTION COSTS

| | | |
|--------------------------|---------------|-----------|
| Construction | \$ 121,114 | |
| Construction Contingency | <u>18,886</u> | |
| Total Construction Costs | | \$140,000 |

INCIDENTAL COSTS

| | | |
|---|--------------|---------------|
| Engineering | 10,000 | |
| Bond Opinion and Legal Proceedings | 10,000 | |
| Bond Printing Registration | 2,000 | |
| County Administration | 5,000 | |
| Bond Discount and Capitalized Interest | 26,000 | |
| Financial Advisor | 3,000 | |
| Reserve fund | <u>9,000</u> | |
| Total Incidental Costs | | <u>65,000</u> |

| | | |
|----------------|--|-----------|
| TOTAL ESTIMATE | | \$205,000 |
|----------------|--|-----------|

ESTIMATE.MEM/SOARING

NOTICE OF PROPOSED IMPROVEMENT

NOTICE IS HEREBY GIVEN that on the 12th day of July, 1993, the Board of Directors of the **Soaring Eagle Road Improvement District** (the "District") adopted a Resolution of Intention to order the grading, filling, and paving of all roads within the District for an amount not to exceed \$205,000. Said proceedings are being had pursuant to Article 1, Chapter 6, Title 48, Arizona Revised Statutes. The costs and expenses of the Work shall be assessed against the land lying within the District as described in the map and legal description of the boundaries of the District as described in EXHIBIT "A" and "B," attached hereto and incorporated herein by reference. The Plans and Specifications, Diagram of the District, and the Total Estimated Cost have been preliminarily adopted and are on file with the Clerk of the District who is the Clerk of the Board of the Navajo County Supervisors, Navajo County, located in Holbrook, Arizona.

NOTICE IS FURTHER GIVEN that serial improvement bonds will be issued, to bear interest from their date at a rate not to exceed fifteen percent (15%) per annum, to be paid from a special fund collected in not to exceed twenty-five (25) annual installments from assessments of twenty-five dollars (\$25.00) or over remaining unpaid forty (40) days after the date of recording the assessment or five (5) days after the decision of the Board upon an objection.

NOTICE IS FURTHER GIVEN that pursuant to A.R.S. Section 48-918, on Monday, the 16th day of August, 1993, at 11:00 a.m. at the Supervisors' Chambers, Navajo County Governmental Complex, Holbrook, Arizona, the Board of Directors will hold a hearing upon the sufficiency of any protest filed pertaining to the Resolution of Intention to order certain improvements adopted by said Board of Directors on the 20th day of January, 1992, upon the proposed Plans and Specifications or Total Estimated Cost, or any other matters which may lawfully come before the Board. All persons, their agents or attorneys filing protests pursuant to A.R.S. Section 48-918, are required to appear and show cause why the protest should not be overruled. Upon completion of the determination of the sufficiency of said protest, the Board of Directors will consider adopting a Resolution Ordering the Improvements within the District.

All written protests shall be filed with Clerk of the Board of Supervisors, Navajo County Governmental Complex, P.O. Box 668, Holbrook, Arizona 86025.

EXECUTED this 12th day of July, 1993.

SOARING EAGLE COUNTY
ROAD IMPROVEMENT DISTRICT


Clerk